

REMARKS

Entry of the foregoing amendments is respectfully requested.

Summary of Amendments

Upon entry of the foregoing amendments, claims 18-37 are cancelled and claims 38-57 are added, whereby claims 38-57 will be pending, with claims 38 and 54 being independent claims.

Support for the new claims can be found throughout the present specification and in the original claims. In this regard, it is noted that all of the compositions that are exemplified in the instant specification and comprise at least 5 % by weight of a skin moisturizing agent (b2) as recited in the instant claims (i.e., all compositions with the exception of the concealing stick of Example 94 which is outside the instant claims because it contains only 2 % by weight of skin moisturizing agent) contain at least 5 % by weight of glycerol. Moreover, all of the exemplified compositions which contain glycerol and a further skin moisturizing agent contain this combination in a total concentration of at least 7.5 % by weight (see, e.g., Examples 16 and 17).

It is pointed out that the cancellation of claims 18-37 is without prejudice or disclaimer, and Applicants expressly reserve the right to prosecute the subject matter of the cancelled claims in one or more continuation and/or divisional applications.

Summary of Rejections of Record

Claims 18-28, 32, 33 and 36 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schreiber et al., U.S. Patent No. 6,613,338 (hereafter "SCHREIBER") in view of

Pescatore et al., U.S. Patent No. 5,753,212 (hereafter "PESCATORE").

Claim 29 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over SCHREIBER in view of PESCATORE and further in view of Butuc, US 2002/0055562 A1 (hereafter "BUTUC").

Claims 34 and 35 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over SCHREIBER in view of PESCATORE and further in view of Fabrisi, U.S. Patent No. 5,860,756 (hereafter "FABRISI").

Response to Rejections

Since all of the rejected claims are cancelled the rejections of record are moot.

Regarding the rejections of record – as far as they apply to the claims submitted herewith – the arguments set forth in the Appeal Brief filed December 4, 2008 and the Reply Brief filed May 26, 2009 are referred to. The corresponding remarks are expressly incorporated herein.

With respect to the new claims submitted herewith, Applicants are unable to see that any of the documents relied upon by the Examiner teaches or suggests the combination of elements recited therein. This is an additional reason (i.e., in addition to the reasons set forth in the Appeal Brief and the Reply Brief) why none of SCHREIBER, PESCATORE, BUTUC and FABRISI is able to render obvious the subject matter of claims 38-57 submitted herewith.

CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
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